

### REMARKS

The Non-Final Office Action mailed September 20, 2007 considered claims 1-25. Claims 1-5, 14, 18, 21 and 23-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Casati et al.* (US 2005/0160081) hereinafter *Casati*, in view of *Wenocur et al.* (US 2002/0178360) hereinafter *Wenocur*. Claims 6-7, 13, 19, and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Casati*, in view of *Wenocur* and further in view of *Eastep et al.* (US 6,731,625) hereinafter *Eastep*. Claims 8-10, 15 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Casati*, in view of *Wenocur* and further in view of *Mullins et al.* (US 2003/0208505) hereinafter *Mullins*. Claims 11-12 and 16-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Casati*, in view of *Wenocur* and further in view of *Staveley et al.* (US 6,973,491) hereinafter *Staveley*.<sup>1</sup>

By this amendment claims 1-3, 5-12, 14-21, 23-25 are amended and claims 26 and 27 are new.<sup>2</sup> Accordingly, claims 1-27 are pending, of which claims 1, 14, 24, and 25 are the independent claims at issue.

The invention is generally directed to configuring collections of computer related metric data. For example, claim 1 recites a method for specifying computer related metric data that is to be delivered to a server. Claim 1 defines executing an application at the computer system. Next claim 1 defines generating metric data related to the functionality of the application during execution of the application. The generated metric data including at least one of performance monitoring data and event log data for the application. Claim 1 then defines storing the metric data related to the functionality of the application at the computer system.

Claim 1 also defines accessing a manifest that indicates a subset of the generated metric data related to the functionality of the application is to be packaged for delivery to a server. Claim 1 further defines automatically sending schema-based package start data to a quality metric module to cause the subset of the generated of metric data related to the functionality of the application to be packaged for delivery to the server. The schema-based package start command includes elements and attributes of a vocabulary defined in a selection schema. The

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

<sup>2</sup> Support for the amendments to the claims are found throughout the specification and previously presented claims, including but not limited to paragraphs [0020], [0036] – [0039], [0041] – [0048], and Figures 1 and 2.

selection schema defines how to indicate that subsets of performance monitoring data and subsets event log data are to be packaged. Lastly, claim 1 defines sending a package send command to the quality metric module to cause the packaged subset of generated metric data related to the functionality of the application to be delivered to the server.

Claim 24 is a computer program product corresponding to method claim 1. Claim 14 is a method claim corresponding to claim 1 from the perspective of a quality metric module. Claim 25 is a computer program product corresponding to method claim 14.

Applicants respectfully submit that the cited art of record does not anticipate or otherwise render the amended claims unpatentable for at least the reason that the cited art does not disclose, suggest, or enable each and every element of these claims.

*Casati* relates to displaying metrics from an alternative view of a database. *Casati* addresses problems related to data collection and complex queries when generating reports from data in a database. The embodiments of the invention provide a framework for efficiently defining and computing business metrics from a database. ([0016]). As used in *Casati*, a business metric is a measurable property of elements associated with a business entity. ([0016]). As depicted in Figure 2, one or more metrics utilize the data generated by one or more mappings to provide data to a reporting application. ([0017]).

*Wenocur* relates to communicating a secure unidirectional message. *Wenocur* addresses problems related to sending messages to computer systems that have different hardware capabilities, network settings, and user preferences in a manner that preserves the original intent of the message ([0008], [0011], [0014], [0015], [0024], [0038]). Some embodiments of *Wenocur* include searching and selecting data and control elements in message procedural/data sets for automatic and complete portrayal of message to maintain message intent. (Abstract and [0040]). Output of a message (or "story") can be controlled based on available hardware. ([0073]). However, the resulting output is data from the original message not metric data of any for. In some embodiments, users are permitted, through the use of a form, to indicate media types they wish to receive. ([1039] and [1040]). Messages can be played back out of order. ([1043]).

Accordingly, the cited art fails to teach or suggest, either singly or in combination:

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an act of generating metric data related to the functionality of the application during execution of the application, the generated metric data

including at least one of performance monitoring data and event log data for the application;

...

an act of accessing a manifest that indicates a subset of the generated metric data related to the functionality of the application is to be packaged for delivery to a server;

an act of automatically sending schema-based package start data to a quality metric module to cause the subset of the generated of metric data related to the functionality of the application to be packaged for delivery to the server, the schema-based package start command including elements and attributes of a vocabulary defined in a selection schema, the selection schema defining how to indicate that subsets of performance monitoring data and subsets event log data are to be packaged;

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as recited in claim 1, when viewed in combination with the other limitations of claim 1. For at least this reason claim 1 patentably defines over the art of record. For at least this same reason claim 24 also patentably defines over the art of record.

Further the cited art fails to teach or suggest, either singly or in combination:

an act of receiving schema-based package start data from an application, the schema-based package start data indicating that a subset of generated metric data related to the functionality of the application is to be packaged for delivery to a server, the generated metric data including at least one of performance monitoring data and event log data for the application, the schema-based package start command including elements and attributes of a vocabulary defined in a selection schema, the selection schema defining how to indicate that subsets of performance monitoring data and subsets event log data are to be packaged;

an act of accessing the indicated subset of generated metric data related to the functionality of the application from computer system storage;

an act packaging the subset of generated metric data related to the functionality of the application according to a packaging schema defining elements and attributes used at the server;

as recited in claim 14, when viewed in combination with the other limitations of claim 14. For at least this reason claim 14 patentably defines over the art of record. For at least this same reason claim 25 also patentably defines over the art of record.

Since each dependent claim depends from claim 1 or claim 14 each of the dependent claims are also patentably defines over the art of record at least for the same reason as their corresponding based claim respectively. However, many of the dependent claims also independently distinguish over the cited art. For example, the cited art fails to teach or suggest, either singly or in combination "accessing a manifest specifically selected by a developer to configure the subset of generated metric data for use in studying the functionality of the application", as recited in claim 26. Likewise, the cited art fails to teach or suggest, either singly or in combination "receiving schema-based package start data based on a manifest specifically selected by a developer to configure the subset of generated metric data for use in studying the functionality of the application", as recited in claim 27.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 20<sup>th</sup> day of December, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Nydegger", written over the printed name.

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